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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (C) No.3325 of 2007

Petitioner Plaintiff	:	Bhupendra Kumar, aged about 37 years, son of Shri Dayaram Kosle, Occupation Service, Resident of Village and Post Jaijaipur, Tahsil Jaijaipur, District Jamjgir-Champa (C.G.)
	Versus	
Respondents Defendants	1.	Ramjeevan, aged about 45 years, Son of Shri Ghasiram;
	2.	Rameshwar, aged about 55 years, Son of Shri Ghasiram;
		Both castes are Sahu and Resident of Village and Post Jaijaipur, Tahsil Jaijaipur, District Janjgir-Champa (C.G.)

(Writ Petition under Artice 227 of the Constitution of India)

Single Bench: Hon'ble Justice Satish K. Agnihotri

Present : Shri Ratnesh Agrawal, counsel for the petitioner.

ORDER
(Passed on 18th June, 2007)

By this petition filed under Article 227 of the Constitution of India, the petitioner impugns the order dated 26.03.2007 passed by the Civil Judge Class-2 Sakti, District Janjgir-Champa (C.G.) in an application filed under Order 26 Rule 9 of the Code of Civil Procedure. The petitioner has filed a suit for permanent injunction, possession of the vacant land and mesne profit in Civil Suit No.443-A/2006. The petitioner filed an application under Order 26 Rule 9 of the C.P.C. for appointment of the Commissioner for demarcation and measurement of the suit land (Annexure P-3).

2. The learned Court below after hearing both the parties came to the conclusion that the demarcation of the suit land had already

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taken place earlier and against the said demarcation the petitioner has not filed any appeal or revision. The petitioner remained absent in the demarcation proceeding throughout. At this juncture when the suit is under consideration and written statement has been filed, no useful purpose would be served by appointing a Commissioner for demarcation and verification, which has already been done. Accordingly, the application was rejected. The contention of learned counsel for the petitioner that the demarcation would be helpful for proper disposal of the suit, deserves to be rejected on the simple ground that the demarcation has already taken earlier and the petitioner has not taken any steps for impugning the legality of the said demarcation.

3. It is well settled principle of law that under Article 227 of the Constitution of India, this court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the face of the proceedings based on the clear ignorance or utter disregard to the provisions of law or there is grave failure of justice or grave injustice has occasioned thereby. Further, this court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself. There is no merit in the case as the impugned order is just and proper and needs no interference.

4. Thus, this petition is dismissed summarily.

Sd/-
Satish K. Agnihotri
Judge

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